

PUBLIC PROSECUTOR v. CHOO SWEE HUAT

[A. Cr. J. (Suffian J.) October 21, 1962]

[Alor Star — Criminal Appeal No. 49 of 1962]

*Criminal Procedure — Sentence — Assessing sentences in income tax offence — Principles to be followed.**Income Tax — Charge under s.59, Income Tax Ordinance, 1947 — Observation on principles to be followed in assessing sentences.*

In this case the respondent pleaded guilty to four charges, of failing to give notice to the Comptroller that he was chargeable with income tax, under section 59 of the Income Tax Ordinance, 1947. He was convicted and fined \$50 on the first charge and on each of the other three charges he was cautioned and discharged.

Held: these sentences were manifestly inadequate. Sentences increased to \$250 on each charge.

Per curiam: One of the principles to be followed in assessing sentences in income tax offences is this. Income tax forms part of the revenues of the country which are required to pay for schools, hospitals, rural development and other multifarious services. If a man, a business man in particular, does not play his full part by declaring his existence to the Government, the revenue will suffer. A most serious effect of evasion may be to persuade the Government to cut down on services or to increase the rates of taxes payable by willing members of the community by not paying. An income tax dodger cheats not only the Government but he cheats his fellow men as well.

MAGISTRATE'S CRIMINAL APPEAL.

Hamzah bin Dato Abu Samah (Deputy Public Prosecutor) for the appellant.

Tan Lye Huat for the respondent.

Suffian J.: In this case the accused was charged with four charges under section 59 of the Income Tax Ordinance, No. 48 of 1947. According to that section he should have given notice to the Comptroller that he was chargeable with income tax within three months and fourteen days of each year, the relevant years in this case being 1954, 1955, 1956 and 1957. He did not do so and he was charged with four charges. To each of these charges he pleaded guilty. He was convicted, on the first charge he was fined \$50 and on each of the other three charges he was cautioned and discharged. In my judgment these sentences are manifestly inadequate. Income tax has been in force in this country since 1947 and any business man who says that he had never heard of it or knows very little about it cannot have a very high opinion of the intelligence of the Court.

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services or to increase the rates of taxes payable by willing members of the community by not paying. An income tax dodger cheats not only the Government but he cheats his fellow men as well. In these circumstances, considering the maximum penalty provided by law (\$1,000 or in default 6 months) which suggests that the legislature takes a serious view of these offences, I have decided to increase the sentences to \$250 on each charge. So the order of the learned Magistrate is varied to that extent. Accused has paid \$50. He now has to pay \$950. On his application, I agree that he should pay \$150 today, the balance in monthly instalments of \$150 (the 6th instalment to be only \$50). The first instalment to be paid on 20th November, 1962, subsequent instalments on the 20th of every subsequent month thereafter.

Order accordingly.

PUBLIC PROSECUTOR v. KOAY SEONG CHEAM

[A. Cr. J. (Suffian J.) October 21, 1962]

[Alor Star — Criminal Appeal No. 52 of 1962]

Road Traffic — Overloading — Observations on the offence of overloading.

In cases of overloading, small fines are inadequate punishment.

MAGISTRATE'S CRIMINAL APPEAL.

Hamzah bin Dato Abu Samah (Deputy Public Prosecutor) for the appellant.

Respondent in person.

Suffian J.: The respondent owned a lorry K. 7203. On 3rd March, 1962 it was caught overloaded. The authorised laden weight was 8 tons, but it was overloaded to the extent of 69 cwt. 96 lbs. He was charged with having permitted the lorry to be overloaded. He pleaded guilty and was convicted and fined \$50.

In my judgment this was grossly inadequate. An overloaded lorry is a danger to other road users being more difficult to drive and control. It causes serious damage to the surface of the road which is very expensive to maintain. It cheats the revenue because a lorry is taxed according to its permitted weight. Overloading brings easy profit to the owner. It is easy to commit this offence which is not easy to detect.

The maximum penalty for this offence is 6 months' imprisonment or a fine of \$2,000 or both. Obviously the legislature takes a serious view.

To punish the owner, as a warning to other lorry owners and in the interest of road safety I enhance the sentence to a fine of \$250. As the accused has already paid \$50, he should now pay another \$200.

Sentence enhanced.